



IT IS ORDERED as set forth below:

C. Ray Mullins

Date: December 5, 2017

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

C. Ray Mullins
U.S. Bankruptcy Court Judge

IN RE:) CHAPTER 13
)
JON DOUGLAS FIANT) CASE NO. 15-69000-CRM
MELANIE DIANE FIANT)
DEBTORS.)

)
SPECIALIZED LOAN SERVICING LLC)
AS SERVICING AGENT FOR THE BANK)
OF NEW YORK MELLON TRUST)
COMPANY, NATIONAL ASSOCIATION)
FKA THE BANK OF NEW YORK TRUST)
COMPANY, N.A. AS SUCCESSOR TO)
JPMORGAN CHASE BANK, AS)
TRUSTEE FOR RESIDENTIAL ASSET)
MORTGAGE PRODUCTS, INC.,)
MORTGAGE ASSET-BACKED)
PASS-THROUGH CERTIFICATES,)
SERIES 2002-RS6)
MOVANT,)
)
V.)
)
JON DOUGLAS FIANT)
MELANIE DIANE FIANT,)
NANCY J. WHALEY, TRUSTEE)
RESPONDENTS.)

CONTESTED MATTER

CONSENT ORDER

This matter arose upon the motion of Specialized Loan Servicing LLC, as servicing agent for The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2002-RS6 (Movant”), filed September 12, 2017 (Doc. No. 42) to modify the stay of 11 U.S.C. §362 (a) to allow Movant to foreclose on Debtors’ real property known as 1829 Tree Top Court, Marietta, GA 30062 (“Property”). The motion was rescheduled for hearing October 3, 2017 and notice was provided to Debtors, Debtors’ attorney and Trustee.

Movant and Debtors acknowledge and agree that (1) no significant equity exists in the Property, and (2) the current total post-petition delinquency through October 17, 2017 is \$3,926.56.

Based on the foregoing agreement, Debtors and Movant consent to the terms hereof; accordingly, it is hereby

ORDERED that (1) to cure the arrearage, Debtors will remit \$3,926.56 directly to Movant no later than November 20, 2017; (2) Debtors will resume paying Movant the regular monthly mortgage payment in the amount of \$1,013.74, due on the 1st day of each month, beginning with the payment due November 1, 2017; (3) Debtors shall mail all payments to Movant as follows:

Specialized Loan Servicing LLC

P.O. Box 636007

Littleton, Colorado 80163

(4) Debtors also agrees to pay all hazard insurance premiums for which Movant does not maintain an escrow account when the same become due. It is further

ORDERED that, upon the delinquency of Debtors in any regular payment or cure payment to come due on or before April 1, 2018, Movant may be permitted to recover and dispose of the Property pursuant to applicable state law only after submitting a Delinquency Motion (as more particularly described below) and the entry of an order **modifying** the automatic stay of 11 U.S.C. §362 in the following manner:

(A) Counsel for Movant shall serve both Debtors and Debtors' counsel of record with written notice of the specific facts of the delinquency ("**Delinquency Notice**"); said notice may be contained in a letter but shall

- (1) state that Debtors may cure the delinquency within ten (10) calendar days of receipt of said notice, and
- (2) shall specifically provide the correct street address for mailing or delivering such payment;

Pursuant to this order, Debtors shall be presumed to have received the Delinquency Notice on the fifth (5th) calendar day following the mailing of said notice by Counsel for Movant; provided, however, that

- (a) the Delinquency Notice is properly addressed to Debtors at the address set forth on the Distribution List attached to this Order pursuant to BLR 9013-3(c) (2) NDGa, unless Movant or Counsel for Movant receives notice in writing of a change in Debtors' address within a reasonable time prior to mailing of the Delinquency Notice; and
- (b) the Delinquency Notice is not returned to Counsel for Movant by the U.S. Postal Service as undeliverable by reason of improper address.

(B) If Debtors fail to cure the delinquency within ten (10) days of receipt of said written notice, Counsel for Movant may present to the Court, after service on both the Debtors and Debtors' counsel:

- (1) **a motion**, which must contain allegations of the specific facts of the delinquency; provided, however, that, instead of alleging the facts of the delinquency in the motion (the averments of which are subject to Rule 9011), the motion may be accompanied by an affidavit from Movant setting forth the specific facts of the delinquency;
- (2) a copy of the **Delinquency Notice**, together with
- (3) **a proposed order** (the motion, copy of the Delinquency Notice and the proposed order are herein collectively referred to as the "**Delinquency Motion**").

Upon presentation of said Delinquency Motion, the Court may enter an order **modifying** the stay as to the Property, without further hearing. If any proceeds remain from the foreclosure sale after application to Movant's lawful indebtedness, fees and foreclosure costs, Movant or its counsel shall promptly forward such excess proceeds to the Trustee. It is further

ORDERED that in the event the stay is lifted or Debtors' plan is modified to no longer provide for the payment of Movant's claim that upon entry of this Order, Trustee shall cease funding Movant's claim in the instant bankruptcy case until further notice from this Court. It is further

ORDERED that the Clerk of Court shall serve this Order to the parties set forth on the distribution list attached hereto.

[END OF DOCUMENT]

(signatures continued on next page)

Prepared and Presented by:

/s/Chad R. Simon

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Consented to by:

/s/ by Chad Simon with express permission

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No opposition by:

/s/by Chad Simon with express permission

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DISTRIBUTION LIST

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